



BOX RESPONSE
Attorney Docket No. 34016A

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Marc S. HERMELIN et al.

Serial No.: 10/080,390

Examiner: Neil Levy

Filed: February 25, 2002

Group Art Unit: 1616

Title: MINERAL SUPPLEMENT

TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith for filing in the U.S. Patent and Trademark Office are the following:

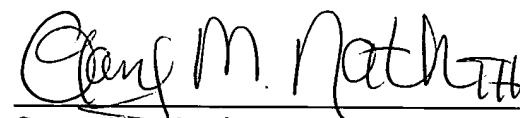
- 1) Transmittal Letter; and
- 2) Response to Restriction Requirement and Species Election.

The Commissioner, in connection with this matter, is specifically authorized to charge any required fee deficiency under 37 CFR §§ 1.16 or 1.17 to Deposit Account No. 14-0112.

Respectfully submitted,

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By:



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PATENT

Attorney Docket No. 24016A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Marc S. Hermelin et al.

Examiner: Neil Levy

Serial No.: 10/080,390

Group Art Unit: 1616

Filing Date: February 25, 2002

Title: **MINERAL SUPPLEMENT**

RESPONSE TO RESTRICTION REQUIREMENT
AND SPECIES ELECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated May 21, 2003, due for reply by June 21, 2003, which is a Saturday. Therefore, this response is filed within the time period set by the Examiner.

SUMMARY OF RESTRICTION REQUIREMENT

Election of Groups: The Examiner has required Applicants under 35 U.S.C. §121 to elect a single Group from the following:

Group I: claims 38-63, drawn to methods of use

Group II: claims 64, 65, drawn to methods of preparation

As basis for this restriction requirement, the Examiner contends the inventions are distinct, each from the other, for the following reasons:

Inventions I and II are related as product and process of

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use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the methods as claimed can be practiced with materially different products, such as anesthetics.

The Group I, II have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, the search for any 1 group is not required for any other Group, and a search and examination of the entire application would place an undue burden on the Examiner, the present restriction requirement is proper for examination purpose.

Election of Species: The Examiner has required applicants under 35 U.S.C. §121 to elect a single disclosed species from the following:

Species of animal: human, etc.

Species of regimen: therapeutics, nutritional

Species of active.